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Applicant : Deryck Jeremy William et al.  
Serial No. : 10/090,527  
Filed : March 4, 2002  
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Attorney/Agent No.: 12557-009001

### REMARKS

Applicants have cancelled claims 4-8, 12, 13, 25-28, 32, 33, and 59-64 as drawn to a non-elected species.

Applicants appreciate the notification that claims 22-24 and 35-54 are allowable.

Applicants also appreciate the notification that claims 15, 18, 20, 21 and 58 would be allowable if rewritten as independent claims that include all of the limitations of the claims from which they depend.

Applicants thank the Examiner for the helpful interview that took place on February 11, 2003.

Claims 1, 3, 10, 11, 22, 24, and 55 have been amended to more clearly specify the location of double bonds in the C15-C19 carbon chain ( $R_2$ ) relative to the carbonyl carbon. Support for the amendments is found, for example, on page 12 of the specification. Claims 1-3, 22, 25 and 55 have been amended to specify the potential substituents on the C1-C2 carbon chain. This limitation was taken from previously pending claim 4.

Claim 1 has been amended to recite "a nematocidal composition consisting essentially of..." rather than a "nematocidal composition comprising..."

Claims 65-70 have been added.

#### New Claims 65-70

New claim 65 is identical to amended claim 1 except that the presence of a permeation enhancer is specified. New claim 66 is identical to amended claim 1 except that the presence of a co-solvent is specified. New claim 67 is identical to amended claim 1 except that the presence of a particular nematocide is specified. New claim 68 depends from any of claims 65-67 and recites specific surfactants. Claim 69 depends from 65 and specifies a particular permeation enhancer. Claim 70 depends from claim 66 and specifies a particular co-solvent.

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#### Claims 55-58

Applicants believe that claims 55-58 should be allowable. These claims are drawn to a feed for non-human mammals that includes: a feed and certain nematocidal compounds. Nothing in the cited reference (U.S. Patent 5,277,708) teaches or suggests such a feed.

#### Claims 29-31 and 34

The Examiner noted that claims 29-31 and 34, which are method claims, depend from claim 14, a composition claim. These claims have been amended to depend from claim 22 and are believed to be allowable as amended.

#### Rejections under 35 U.S.C. §112, second paragraph

Claims 16 and 36 have been amended to replace the trade names Tween® 20 and Igepal® CO-630 with the proper chemical names of these compounds.

#### Rejection under 35 U.S.C. §103

Claims 1-3, 9-11, 14, 16, 17, 19, 55 and 57 were rejected as allegedly obvious in view of Stuart (U.S. Patent 5,277,708).

As discussed in the interview of February 11, 2002, Stuart teaches compositions that include either a fatty acid or a fatty acid methyl ester in combination with an surfactant, an abrasive grit and an acrylic co-polymer. The only mention of linoleic acid is in connection with the fatty acid component, not the fatty acid methyl ester component. Thus, nothing in Stuart suggests the use of linoleic methyl ester. Moreover, even if Stuart taught linoleic methyl ester, which it does not, there is nothing in Stuart to teach or suggest the fatty acid esters that are a component of the compositions of the claims 1-3, 9-11, 14, 16, 17, 19, 55, 57, and 65-70. The fatty acid esters of these claims have a carbon chain of 15 to 19 carbons attached to the carbonyl carbon. There is a *cis* double bond between the 9<sup>th</sup> and 10<sup>th</sup> carbons counting from the carbonyl carbon and either: (i) a triple bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon or (ii) a single or double bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon and at least one substituent at one or both of the 12<sup>th</sup> and 13<sup>th</sup> carbons. Linoleic acid has a double bond between the 9<sup>th</sup> and 10<sup>th</sup> carbons and between the 12<sup>th</sup> and 13<sup>th</sup> carbons.

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However, linoleic acid is not substituted at either the 12<sup>th</sup> or 13<sup>th</sup> carbon counting from the carbonyl carbon. Thus, even if Stuart taught linoleic methyl ester, which it does not, nothing in the reference teaches or suggests the substitution of linoleic methyl ester at the 12<sup>th</sup> or 13<sup>th</sup> carbon.

In view of the forgoing, the cited art cannot be seen as rendering obvious any of pending claims 1-3, 9-11, 14, 16, 17, 19, 55 and 57, and Applicants request that the rejections under 35 U.S.C. §103 be withdrawn.

#### SUMMARY

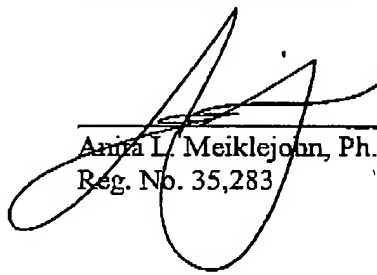
Attached is a marked-up version of the changes being made by the current amendment.

Applicant asks that all claims be allowed. A Transmittal Letter and Petition for Automatic Extension is enclosed to cover payment of excess claims fees and extension fees. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

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Version with markings to show changes made

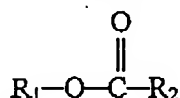
In the claims:

Claims 4-8, 12, 13, 25-28, 32, 33, and 59-64 have been cancelled.

Claims 1-3, 9-11, 14-17, 19, 20-24, 29-31, 34, 36 and 55 have been amended as follows:

1. (Amended) A nematicidal composition consisting essentially of [comprising]:

(a) an effective amount of a compound having the formula



wherein:

$\text{R}_1$  = a [C<sub>1</sub>-C<sub>5</sub>] C1-C5 substituted or unsubstituted carbon chain, wherein the substituents are selected from the group consisting of: hydroxy, halogen, amino, cyano, cyclopropane, cyclopropene, epoxy, and a C1-C2 substituted or unsubstituted carbon chain, wherein the substituents on the C1-C2 carbon chain are selected from the group consisting of hydroxy, halogen, amino, cyano, and epoxy [hydroxy, halogen, amino, cyano, a singly or multiply substituted or unsubstituted C<sub>1</sub>-C<sub>2</sub> carbon chain, cyclopropane, and epoxy]; and

$\text{R}_2$  = a [C<sub>15</sub>-C<sub>19</sub>] C15-C19 substituted or unsubstituted carbon chain having a *cis* double bond between the 9<sup>th</sup> and 10<sup>th</sup> carbons counting from the carbonyl carbon and either: (i) a triple bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon or (ii) either a single or double bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon and at least one substituent at one or both of the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon, wherein the substituents are selected from the group consisting of: hydroxy, halogen, amino, cyano, cyclopropane, cyclopropene, epoxy, and a substituted or unsubstituted C1-C2 carbon chain, wherein the substituents on the C1-C2 carbon chain are selected from the group consisting of hydroxy, halogen, amino, cyano, and epoxy [hydroxy, halogen, amino, cyano, a singly or multiply substituted or unsubstituted C<sub>1</sub>-C<sub>2</sub> carbon chain, cyclopropane, cyclopropene, and epoxy]; and

(b) an aqueous surfactant.

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2. (Amended) The nematocidal composition of claim 1 wherein  $R_1$  = a  $[C_1-C_5]$  C1-C5 substituted or unsubstituted carbon chain, wherein the substituents are selected from the group consisting of: hydroxy, halogen, amino, cyano, cyclopropane, cyclopropene, epoxy, and a singly or multiply substituted or unsubstituted C1-C2 carbon chain, wherein the substituents on the C1-C2 carbon chain are selected from the group consisting of hydroxy, halogen, amino, cyano, and epoxy [hydroxy, halogen, amino, cyano, an unsubstituted  $C_1-C_2$  carbon chain, cyclopropane, and epoxy].

3. (Amended) The nematocidal composition of claim 1 wherein  $R_2$  = a  $[C_{15}-C_{19}]$  C15-C19 substituted or unsubstituted carbon chain having a *cis* double bond between the 9<sup>th</sup> and 10<sup>th</sup> carbons counting from the carbonyl carbon and either: (i) a triple bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon or (ii) either a single or double bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon and at least one substituent at one or both of the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon, wherein the substituents are selected from the group consisting of hydroxy, halogen, amino, cyano, [a unsubstituted  $C_1-C_2$  carbon chain], cyclopropane, cyclopropene, [and] epoxy, and an unsubstituted C1-C2 carbon chain.

9. (Amended) The composition of claim 1 wherein  $R_1$  is a  $[C_1-C_2]$  C1-C2 substituted or unsubstituted carbon chain.

10. (Amended) The composition of claim 1 wherein  $R_2$  is substituted only at one or both of 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon.

11. (Amended) The composition of claim 10 wherein  $R_2$  is substituted only at the 12<sup>th</sup> carbon counting from the carbonyl carbon.

14. (Amended) The composition of claim 10 wherein within  $R_2$  the substituents are selected from the group consisting of: hydroxy, epoxy, and a  $[C_1 \text{ methyl}]$  C1 alkyl.

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15. (Amended) A nematocidal composition comprising:

- (a) a fatty acid methyl ester selected from the group consisting of: ricinoleic acid methyl ester, crepenynic acid methyl ester, and vernolic acid methyl ester; and
- (b) an aqueous surfactant.

16. (Amended) The composition of claim 1 or claim 15 wherein the aqueous surfactant is selected from the group consisting of: ethyl lactate, polyoxyethylene 20 sorbitan monolaureate, polyoxyethylene 9 nonylphenyl-ether [Tween 20 and Igepal CO 630].

17. (Amended) The composition of [claim 1 or] claim 15 wherein the composition further comprises:

- (c) a permeation enhancer.

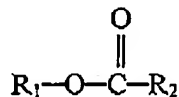
19. (Amended) The composition of [claim 1] claim 15 where the composition further comprises:

- (c) a co-solvent.

21. (Amended) The composition of [claim 1 or] claim 15 further comprising a nematocide selected from the group consisting of: avermectins, ivermectin, and milbemycin.

22. (Amended) A method for control of unwanted nematodes, the method comprising administering to mammals, plants, seeds or soil a nematocidal composition comprising:

- (a) an effective amount of a compound having the formula



wherein:

R<sub>1</sub> = a [C<sub>1</sub>-C<sub>5</sub>] C1-C5 substituted or unsubstituted carbon chain, wherein the substituents are selected from the group consisting of: hydroxy, halogen, amino, cyano, cyclopropane, cyclopropene, epoxy, and a substituted or unsubstituted C1-C2 carbon chain, wherein the

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substituents on the C1-C2 carbon chain are selected from the group consisting of hydroxy, halogen, amino, cyano, and epoxy [hydroxy, halogen, amino, cyano, a substituted or unsubstituted C<sub>1</sub>-C<sub>2</sub> carbon chain, cyclopropane, and epoxy]; and

$R_2 = a$  [C<sub>15</sub>-C<sub>19</sub>] C15-C19 substituted or unsubstituted carbon chain having a *cis* double bond between the 9<sup>th</sup> and 10<sup>th</sup> carbons counting from the carbonyl carbon and either: (i) a triple bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon or (ii) either a single or double bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon and at least one substituent at one or both of the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon, wherein the substituents are selected from the group consisting of: hydroxy, halogen, amino, cyano, cyclopropane, cyclopropene, epoxy, and a substituted or unsubstituted C1-C2 carbon chain, wherein the substituents on the C1-C2 carbon chain are selected from the group consisting of hydroxy, halogen, amino, cyano, and epoxy [hydroxy, halogen, amino, cyano, a singly or multiply substituted or unsubstituted C<sub>1</sub>-C<sub>2</sub> carbon chain, cyclopropane, cyclopropene, and epoxy]; and

(b) an aqueous surfactant.

23. (Amended) The method of claim 22 wherein  $R_1 = a$  [C<sub>1</sub>-C<sub>5</sub>] C1-C5 substituted or unsubstituted carbon chain, wherein the substituents are selected from the group consisting of: hydroxy, halogen, amino, cyano, cyclopropane, cyclopropene, epoxy, and an unsubstituted C1-C2 carbon chain [hydroxy, halogen, amino, cyano, a substituted or unsubstituted C<sub>1</sub>-C<sub>2</sub> carbon chain, cyclopropane, and epoxy].

24. (Amended) The method of claim 22 wherein  $R_2 = a$  [C<sub>15</sub>-C<sub>19</sub>] C15-C19 substituted or unsubstituted carbon chain having a *cis* double bond between the 9<sup>th</sup> and 10<sup>th</sup> carbons counting from the carbonyl carbon and either: (i) a triple bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon or (ii) either a single or double bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons and at least one substituent at one or both of the 12<sup>th</sup> and 13<sup>th</sup> carbons counting from the carbonyl carbon, wherein the substituents are selected from the group consisting of: hydroxy, halogen, amino, cyano, cyclopropane, cyclopropene, epoxy, and an unsubstituted C1-C2 carbon chain



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[hydroxy, halogen, amino, cyano, a unsubstituted C<sub>1</sub>-C<sub>2</sub> carbon chain, cyclopropane, cyclopropene, and epoxy].

29. (Amended) The method of claim [14] 22 wherein R<sub>1</sub> is a [C<sub>1</sub>-C<sub>2</sub>] C1-C2 substituted or unsubstituted carbon chain.

30. (Amended) The method of claim [14] 22 wherein R<sub>2</sub> is substituted only at one or both of 12<sup>th</sup> and 13<sup>th</sup> carbons.

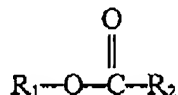
31. (Amended) The method of claim [14] 22 wherein R<sub>2</sub> is substituted only at the 12<sup>th</sup> carbon.

34. (Amended) The method of claim [14] 22 wherein within R<sub>2</sub> the substituents are selected from the group consisting of: hydroxy, epoxy, and a [C<sub>1</sub>] C1 alkyl.

36. (Amended) The method of claim 22 or claim 35 wherein the aqueous surfactant is selected from the group consisting of: ethyl lactate, polyoxyethylene 20 sorbitan monolaureate, polyoxyethylene 9 nonylphenyl ether [Tween 20, and Igepal CO 630].

55. (Amended) A nematicidal feed for a non-human mammal comprising:

- (a) a feed;
- (b) an effective amount of a nematicidal compound having the formula



wherein:

R<sub>1</sub> = a [C<sub>1</sub>-C<sub>5</sub>] C1-C5 substituted or unsubstituted carbon chain, wherein the substituents are selected from the group consisting of: hydroxy, halogen, amino, cyano, cyclopropane, cyclopropene, epoxy, and a substituted or unsubstituted C1-C2 carbon chain, wherein the substituents on the C1-C2 carbon chain are selected from the group consisting of hydroxy,

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halogen, amino, cyano, and epoxy [hydroxy, halogen, amino, cyano, a singly or multiply substituted or unsubstituted C<sub>1</sub>-C<sub>2</sub> carbon chain, cyclopropane, and epoxy];

and

R<sub>2</sub> = a [C<sub>15</sub>-C<sub>19</sub>] C15-C19 substituted or unsubstituted carbon chain having a *cis* double bond between the 9<sup>th</sup> and 10<sup>th</sup> carbons and either: (i) a triple bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons or (ii) either a single or double bond between the 12<sup>th</sup> and 13<sup>th</sup> carbons and at least one substituant at one or both of the 12<sup>th</sup> and 13<sup>th</sup> carbons, wherein the substituents are selected from the group consisting of: hydroxy, halogen, amino, cyano, cyclopropane, cyclopropene, epoxy, and a substituted or unsubstituted C1-C2 carbon chain, wherein the substituents on the C1-C2 carbon chain are selected from the group consisting of hydroxy, halogen, amino, cyano, and epoxy [hydroxy, halogen, amino, cyano, a singly or multiply or unsubstituted [C<sub>1</sub>-C<sub>2</sub>] C1-C2 carbon chain, cyclopropane, cyclopropene, and epoxy]; and

(c) an aqueous surfactant.